



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-126823

July 21, 1965

Dear Mr. Karsten:

Your letter of July 2, 1965, concerns the "Old Customs House" in St. Louis, Missouri, which is used as a post office and apparently is also known as the "Old Post Office."

You state that a local St. Louis group known as "The Committee to Save the Old Post Office" has proposed that the building and its site be donated to the city or some other group for preservation and that the Federal Government purchase a new site for a new Federal and Post Office Building for St. Louis. You advise that the Administrator of the General Services Administration (GSA) does not favor this; that he has pointed out that the Old Customs House is not surplus property and that the site is needed for the new postal and Federal facility; and that he has estimated that it would cost between \$3 and \$3.5 million to acquire another suitable site. You report that the Administrator has concluded that the Old Customs House does not meet the challenge of authentic and historic preservation and it would be in the best interests of the Government to replace it with a modern Federal and postal facility.

You inquire as to whether the Administrator of GSA who has found the property to be needed by the Federal Government, could legally donate it to the city of St. Louis or some other group. Also, you inquire as to whether we might later question such a donation if made by the Administrator in light of his determination that the property is required for Federal needs.

No Government official in the absence of specific legislation is authorized to give away Government property. B-122439, February 23, 1955. This right is reserved to the Congress by section 3 of Article 4 of the Constitution which provides that--

"The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; \* \* \*."

Section 13(h) of the Surplus Property Act of 1944, as amended, 50 U.S.C. App. 1622(h) authorizes the Administrator of GSA (see 5 U.S.C. 630c) to approve the conveyance of "surplus" real property to any State or political subdivision thereof for use as a historic monument without remuneration, provided it is so recommended by the Advisory Board on National Parks,

Historic Sites, Buildings and Monuments established by the act of August 21, 1935 (Historic Sites Act), 49 Stat. 666.

While section 502(a)(1) of the Federal Property and Administrative Services Act of 1949 (renumbered 602(a)(1)) repealed the 1944 act, it excepted from repeal, among others, section 13(h). The term "surplus property" is defined in the 1949 act as "any excess property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator." (40 U.S.C. 472(g)).

We are not aware of any provision of law which would authorize the Administrator of GSA to donate to a city or other group, for a historic monument, Government property which is not surplus to the needs of the Government. Therefore, and since the Administrator of GSA has determined the property involved here is not "surplus" and that "there exists a definite need" for the property in order for certain Federal agencies to discharge their responsibilities, he could not legally donate the property to the city of St. Louis or other group, for a historic monument.

In view of the responsibilities placed upon the General Accounting Office by section 312 of the Budget and Accounting Act of 1921, as amended, 31 U.S.C. 53, we would be required to question and to report to the Congress, a donation of Government property not authorized by law. Thus, in light of what is set forth above, we would be required to question and report to the Congress a donation by the Administrator of the property involved here to the city of St. Louis or other group for a historic monument.

The questions presented are answered accordingly.

Sincerely yours,

FRANK H. WEITZEL

Acting Comptroller General  
of the United States

The Honorable Frank M. Karsten  
House of Representatives